

HOUSE RESEARCH

Bill Summary

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Overview

This bill seeks to adopt the Uniform Collateral Consequences of Conviction Act in Minnesota.

Article 1

Uniform Collateral Consequences of conviction Act

Section

- 1 Short title.** Proposes a title for the act.
- 2 Definitions.** Defines “collateral consequence,” “collateral sanction,” “conviction,” “decision maker,” “disqualification,” “offense,” “person,” and “state,” for purposes of the act.
- 3 Limitation on scope.** Lists the areas that the act does not affect.
- 4 Identification, collection, and publication of laws regarding collateral consequences.** Requires the Revisor of Statutes to identify any provisions in Minnesota’s Constitution, Statutes, or Rules that impose a collateral sanction or authorize the imposition of a disqualification, or that afford relief from a collateral consequence. The Revisor must also prepare and publish a collection of citations to these provisions and annually update the collection.
- 5 Notice of collateral consequences in pretrial proceeding and at guilty plea.** Requires

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peace officers and prosecutors to give a specified notice regarding the legal consequences of a guilty plea or conviction. Also requires courts to confirm that the notice was given before accepting a plea.

- 6** **Notice of collateral consequences at sentencing and upon release.** Requires courts (as part of sentencing) and corrections officials (before releasing offenders) to give an individual convicted of an offense specified notice relating to collateral consequences.
- 7** **Authorizing required collateral sanction; ambiguity.** Provides that collateral sanctions may be imposed only by statute, ordinance, or rule, and that laws creating collateral consequences that are ambiguous as to whether they impose a collateral sanction or disqualification must be construed as authorizing a disqualification.
- 8** **Decision to disqualify.** Requires decision makers, when deciding whether to impose a disqualification, to undertake an individualized assessment to determine whether the benefit or opportunity at issue shall be denied. Specifies the factors the decision maker must consider when making the decision.
- 9** **Effect of conviction by another state or the U.S.; relieved or pardoned conviction.** Addresses the effect of criminal convictions and juvenile adjudications in other states or the United States; convictions that are reversed, overturned, or vacated; pardons; convictions that have been relieved by expungements; and charges or prosecutions that have been terminated without a conviction and imposition of sentence based on participation in a deferred adjudication or diversion program.
- 10** **Order of limited relief.** Authorizes individuals convicted of offenses to petition for an order of limited relief from one or more collateral sanctions relating to employment, education, housing, public benefits, or occupational licensing. The petition must be brought before the Office of Administrative Hearings (OAH, i.e., an administrative law judge). Authorizes the sentencing court to issue an order at or before sentencing (upon approval of the prosecutor). Specifies the criteria that must be met for an order to be granted and what the order must specify.
- 11** **Certificate of restoration of rights.** Authorizes a person convicted of an offense to petition the OAH for a certificate of restoration of rights relieving collateral sanctions. The petition may be brought no sooner than five years after the person's most recent conviction or the person's release from confinement, whichever is later. Specifies the criteria that must be met for the certificate to be issued. Except as provided in the certificate, a certificate relieves all collateral sanctions except those listed in section 12.
- 12** **Collateral sanctions not subject to order of limited relief or certificate of restoration of rights.** Specifies the type of collateral sanctions that may not be relieved under an order of limited relief (section 10) or certificate of restoration of rights (section 11).
- 13** **Issuance, modification, and revocation of order of limited relief and certificate of restoration of rights.** Provides various clarifications for petitions under sections 10 and 11. Specifies the notice that must be given. Authorizes the issuance of more limited orders or certificates that are subject to restriction, condition, or additional requirements. Specifies the

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criteria for restricting or revoking an order or certificate. Authorizes the ordering of tests, reports, investigations, or disclosures that are necessary to a decision to issue, modify, or revoke an order or certificate. Authorizes the individual seeking an order or certificate and/or prosecutor to submit evidence and be heard on relevant issues in certain cases. Requires a public record to be maintained on the issuance, modification, and revocation of orders and certificates.

- 14** **Reliance on order or certificate as evidence of due care.** Provides that in judicial or administrative proceedings involving negligence or other fault, an order of limited relief or certificate of restoration of rights may be introduced as evidence of a person's due care in specified activities relating to the order or certificate.
- 15** **Victim's rights.** Authorizes crime victims to be present and submit an oral or written statement in a proceeding for issuance, modification, or revocation of an order of limited relief or certificate of restoration of rights. Specifies the notification process for victims.
- 16** **Uniformity of application and construction.** Specifies that consideration must be given to the need to promote uniformity when construing and applying the act.
- 17** **Savings and transitional provisions.** Provides that the act applies to collateral consequences whenever enacted or imposed, unless the law creating the collateral consequence specifically states that the act does not apply. Also provides that the act does not invalidate the imposition of a collateral sanction on an individual before the act's effective date. Clarifies that collateral sanctions imposed before the act's effective date may be the subject of relief under the act.
- 18** **Effective date.** Contains the article's effective date.

Article 2

Conforming Amendments

- 1** **Human services.** Amends the Department of Human Services licensing law to clarify how article 1 is to be implemented.
- 2** **Repealer.** Repeals Minnesota Statutes, Chapter 609B. The provisions in this chapter relate to collateral sanctions and are superseded by the requirement in Article 1, Section 4, that the Revisor of Statutes publish the specified collection of collateral sanctions and disqualifications.
- 3** **Effective date.** Contains the article's effective date.